

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	09/848,519	Confirmation No.:	7542
Appellant(s):	David G. Beshore		
Filed:	May 4, 2001		
Art Unit:	3623		
Examiner:	Loftis, Johnna		
Title:	METHOD AND COMPUTER PROGRAM PRODUCT FOR ASSESSING A PROCESS OF AN ORGANIZATION		

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APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the “Notice of Appeal to the Board of Patent Appeals and Interferences” filed August 3, 2007, and subsequent to a panel decision on the “Pre-Appeal Brief Request for Review” of August 27, 2007, the panel decision finding that the application remains under appeal because there is at least one actual issue for appeal.

1. ***Real Party in Interest.***

The real party in interest in this appeal is The Boeing Company, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

The present application includes pending Claims 1-20, all of which stand rejected.

4. ***Status of Amendments.***

There are no unentered amendments in this application.

5. ***Summary of Claimed Subject Matter.***

Independent Claim 1 recites a method for assessing a process of an organization. As recited, the method includes acquiring information concerning the organization and the process. Pat Appl., FIG. 2, blocks **100, 102, 104, 108, 110**; FIG. 3; and p. 6, l. 24 – p. 8, l. 32. The method also includes developing a plurality of preliminary findings (*see*, e.g., FIG. 4, ref. **26**) based upon the information, including characterizing and labeling each preliminary finding with an associated strength or weakness characterization (*see*, e.g., FIG. 4, ref. **30**). *Id.* at FIG. 2, blocks **106, 112**; and p. 7, l. 18-21; p. 8, l. 33 – p. 9, l. 14. In addition, the method includes electronically voting for a conclusion associated with each preliminary finding, where the conclusion associated with each preliminary finding is selected from a group consisting of an agreement with the preliminary finding and a disagreement with the preliminary finding (*see*, e.g., FIG. 4, ref. **32**). *Id.* at FIG. 2, block **114**; and p. 9, l. 15 – p. 11, l. 12. The method further includes developing a plurality of final findings, including characterizing and labeling each final finding with an associated strength or weakness characterization. *Id.* at FIG. 2, block **118**; and p. 11, ll. 13-29. In this regard, the plurality of final findings is based upon the voting for the conclusion associated with each preliminary finding. *Id.*

Depending from independent Claim 1, Claim 6 recites that the aforementioned voting further includes voting for a valuation associated with each preliminary finding, where the valuation associated with each preliminary finding is selected from a group consisting of an agreement with the characterization of the preliminary finding and a disagreement with the associated characterization of the preliminary finding (*see*, e.g., FIG. 4, ref. **34**). Pat Appl., FIG. 2, block **116**; and p. 9, l. 18 – p. 11, l. 12. Developing the final findings, then, is further based upon the valuation voting. *Id.* at FIG. 2, block **118**; and p. 11, ll. 13-29.

Independent Claim 7 recites a computer program product for assessing a process of an organization, where the computer program product includes a computer-readable storage medium having computer-readable program code portions stored therein. Pat Appl., p. 12, ll. 16-

27. As recited, the computer-readable program portions include first, second, third and fourth executable portions. The first executable portion is for acquiring information concerning the organization and the process. *Id.* at FIG. 2, blocks **100, 102, 104, 108, 110**; FIG. 3; and p. 6, l. 24 – p. 8, l. 32. The second executable portion is for presenting a plurality of developed preliminary findings (*see, e.g.,* FIG. 4, ref. **26**), where the findings are based upon the information and each preliminary finding has been characterized and labeled with an associated strength or weakness characterization (*see, e.g.,* FIG. 4, ref. **30**). *Id.* at FIG. 2, blocks **106, 112**; and p. 7, 18-21; p. 8, l. 33 – p. 9, l. 14. In this regard, the second executable portion is adapted to present the plurality of developed preliminary findings including associated labels. *Id.*

As further recited by independent Claim 7, the third executable portion is for voting for a conclusion associated with each preliminary finding, where the conclusion associated with each preliminary finding is selected from a group consisting of an agreement with the preliminary finding and a disagreement with the preliminary finding (*see, e.g.,* FIG. 4, ref. **32**). Pat Appl., FIG. 2, block **114**; and p. 9, l. 15 – p. 11, l. 12. And the fourth executable portion is for presenting a plurality of developed final findings, where the final findings are based upon the voting and each final finding has been characterized and labeled with an associated strength or weakness characterization. *Id.* at FIG. 2, block **118**; and p. 11, ll. 13-29. Similar to the second executable portion, the fourth executable portion is adapted to present the plurality of developed final findings including associated labels. *Id.*

Depending from independent Claim 7, Claim 12 recites that the third executable portion is further adapted to vote for a valuation associated with each preliminary finding, where the valuation of each preliminary finding is selected from a group consisting of an agreement with the associated characterization of the preliminary finding and a disagreement with the associated characterization of the preliminary finding (*see, e.g.,* FIG. 4, ref. **34**). Pat Appl., FIG. 2, block **116**; and p. 9, l. 18 – p. 11, l. 12. The plurality of final findings further, then, is further based upon the valuation voting. *Id.* at FIG. 2, block **118**; and p. 11, ll. 13-29.

Independent Claim 15 recites a method for developing at least one assessment of a process of an organization, where each of the assessment(s) is labeled with an associated strength or weakness characterization. As recited, the method includes acquiring information concerning

the organization and the process; and developing a plurality of preliminary findings (*see, e.g.,* FIG. 4, ref. **26**) based upon the information, including characterizing and labeling each preliminary finding with an associated characterization (*see, e.g.,* FIG. 4, ref. **30**). Pat Appl., FIG. 2, blocks **100-112**; FIG. 3; and p. 6, l. 24 – p. 9, l. 14. The method also includes voting for a valuation associated with each preliminary finding, where the valuation is selected from a group consisting of an agreement with the characterization of the preliminary finding and a disagreement with the characterization of the preliminary finding (*see, e.g.,* FIG. 4, ref. **34**). *Id.* at FIG. 2, block **116**; and p. 9, l. 18 – p. 11, l. 12. In addition, the method includes developing the at least one assessment, including characterizing and labeling each assessment with an associated characterization, where the associated characterization of each assessment is based upon said voting for the valuation associated with each preliminary finding. *Id.* at FIG. 2, block **118**; and p. 11, ll. 13-29.

6. Grounds of Rejection to be reviewed on Appeal.

Currently, all of the pending claims, namely Claims 1-20, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the publication Susann Wilkinson, *Evaluation Report for Grant #R13 HG00793-0142: Impact of Human Genome Initiative on Society: A Women's Study Approach* (hereinafter "Wilkinson"), in view of Official Notice of facts outside the record. All of the pending claims are presently being appealed.

7. Argument.

All of the pending claims, namely Claims 1-20, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilkinson, in view of Official Notice of facts outside the record. As explained below, however, Appellant respectfully submits that the claimed invention is patentably distinct from Wilkinson. In view of the remarks presented herein, Appellant respectfully request reconsideration and reversal of the final rejection of all of the pending claims of the present application.

As background, Wilkinson discloses a participant evaluation of a workshop entitled "Women and Genetics in Contemporary Society" (WAGICS). As disclosed, the workshop was

evaluated in a number of areas including participant background and expectations, pre- and post-workshop agreement with workshop goals, principles and procedures, assessment of the workshop's individual sessions and the alternative communication techniques, participants' post-workshop commentary and reflection. The evaluation data was collected via pre-and post-workshop participant questionnaires, on-site observations compiled on assessment sheets, and alternative communication techniques such as a suggestion/comment box. In one of the questionnaires, for example, a grid was presented on which participants indicated their agreement or disagreement with the theoretical principles that guided the process of organizing the meeting.

A. Claims 1-14 are Patentable over Wilkinson

As explained in response to the final Official Action of June 22, 2006, in contrast to independent Claim 1, and similarly independent Claim 7, Wilkinson does not teach or suggest assessing a process of an organization according to a method that includes (a) developing preliminary findings based upon information concerning the organization and the process, including characterizing and labeling the findings as either a strength or weakness; (b) electronically voting for agreement or disagreement with each finding (or with the characterization of each finding); and then (c) developing final findings based upon the vote, including characterizing and labeling the final findings as a strength or weakness.

In the final Official Action of June 22, 2006, the Examiner appeared to allege that, although Wilkinson does not explicitly disclose preliminary or final findings having associated strength or weakness characterizations, this feature is inherent in Wilkinson since such characterizations are subjective and that, while the theoretical principles presented to the participants for agreement voting mostly include strengths, one or more of those principles may be viewed by some as weaknesses. Then, in the Advisory Action of August 28, 2006, the Examiner further explained that Appellant appeared to be arguing that the aforementioned characterization is more akin to a label placed on a finding than an inherent subjective view of the finding, but that the claimed invention did not distinguish the two interpretations. In response thereto, Appellant filed a request for continued examination (RCE) and amended

independent Claims 1 and 7 to further recite that the preliminary and final findings are labeled with associated characterizations. In the first Official Action of the RCE, dated November 29, 2006, while the Examiner concedes that Wilkinson does not teach or suggest findings including characterization labels, the Examiner took Official Notice that it would have been obvious to label the alleged findings in Wilkinson with strength/weakness characterizations, the alleged motivation being to provide more information for the assessor to enable him/her to provide the most accurate assessment of the organization. The Examiner then maintained this position in the final Official Action of the RCE, dated May 10, 2007. Appellant disagrees, and separately addresses a number of deficiencies in the rejection of the claims below.

1. Acquisition of Information Concerning an Organization and Process

As to the claimed feature of acquiring information concerning an organization and process of the organization, Appellant respectfully submits that the Examiner fails to establish its inherency (as to the information concerning the organization and process) within Wilkinson. In addition, the Examiner appears to illogically assert its relationship with the disclosure of Wilkinson allegedly supporting the claimed feature of developing findings based upon that information.

(a) Inherency of Acquiring Information Concerning an Organization and Process Thereof

Appellant notes that, while the Examiner has not alleged that Wilkinson explicitly discloses evaluating of the principles of Table 3 (allegedly corresponding to the recited acquisition of information) to acquire information concerning the organization and the process, the Examiner alleges that the principles are inherently reflective of the organization and the process. Appellant respectfully submits, however, that not only has the Examiner not established inherency of the aforementioned feature of the claimed invention, Wilkinson does not inherently teach or suggest this feature. As disclosed in the MPEP, the Examiner bears the burden of establishing inherency in the prior art. More particularly, as explained in the MPEP, "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or in technical

reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” MPEP § 2112 (*quoting Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)). To establish inherency, evidence must make clear that the missing descriptive matter is necessarily present in the prior art, and would be recognized as being present in the prior art by those skilled in the art. “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999), *citing Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 1269 (Fed. Cir. 1991) (emphasis added).

In the instant case, the Examiner has failed to provide any facts or technical reasoning to support her conclusion that Wilkinson inherently discloses the aforementioned acquisition of information concerning both the organization and the process. And more particularly, the Examiner has failed to cite any supporting evidence to establish that evaluation of the principles of Table 3 necessarily result in the acquisition of information concerning both the meeting and ELSI (noting without admission that the Examiner has alleged that ELSI corresponds to the recited organization).

**(b) *Developing Preliminary Findings based upon Information
Concerning an Organization and Process Thereof***

Appellant also notes that the Examiner has interpreted theoretical principles that guided the process of organizing the meeting, shown in Table 3 of Wilkinson, as corresponding to the plurality of preliminary findings of the claimed invention. Illogically, however, the Examiner has also interpreted the evaluation of those principles as corresponding to the recited acquisition of information concerning the organization and the process, as also recited by the claimed invention. In this regard, the claimed invention recites developing preliminary findings based upon acquired information concerning the organization and process, which implicitly requires the acquisition of information before development of the preliminary findings based thereon. Under the Examiner’s interpretation of the claimed invention and Wilkinson, however, Wilkinson discloses developing the principles of Table 3 (allegedly corresponding to the recited

preliminary findings) based upon information acquired by evaluating the principles of Table 3 (allegedly corresponding to the recited acquisition of information). Obviously, the principles of Table 3 cannot be developed based upon information acquired by their evaluation since such an interpretation would circularly require the principles of Table 3 to be developed and evaluated to thereby acquire information from which the principles of Table 3 are developed.

2. *Inherency of Strength/Weakness Characterizations*

The Examiner appears to concede that Wilkinson does not explicitly disclose preliminary or final findings having associated strength or weakness characterizations. Nonetheless, the Examiner alleges that this feature is inherent in Wilkinson since such characterizations are subjective and that, while the theoretical principles presented to the participants for agreement voting mostly include strengths, one or more of those principles may be viewed by some as weaknesses. To the contrary, however, even if the principles disclosed by Wilkinson could have associated strength/weakness characterizations, this does not establish inherency of such characterizations in Wilkinson. Rather, establishing inherency of the aforementioned feature requires evidence establishing that principles necessarily do include such characterizations, as opposed to a probability or possibility of including those characterizations.

In response to the foregoing, the Examiner maintains that Wilkinson does inherently disclose strength/weakness characterizations of the principles presented to the participants for agreement. Nonetheless, the Examiner still fails to establish this inherency. As disclosed in the MPEP, the Examiner bears the burden of establishing inherency in the prior art. More particularly, as explained in the MPEP, “In relying upon the theory of inherency, the examiner must provide a basis in fact and/or in technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” MPEP § 2112 (*quoting Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)).

In the instant case, the Examiner has failed to provide any facts or technical reasoning to support her conclusion that Wilkinson inherently discloses the aforementioned strength/weakness characterizations. The Examiner does allege that most of the principles are

characterized as inherent strengths. But not only does the Examiner fail to provide facts or technical reasoning for her conclusion that most of the principles are inherently characterized as strengths, but her allegation does not support that the principles inherently include strength/weakness characterizations in the first place. In fact, in the only substantive attempt to provide such reasoning to support the inherency of characterizations, proffered in the second Official Action (*see* Official Action of Dec. 5, 2005, p. 3), the Examiner's explanation clearly demonstrated that the principles of Wilkinson do not necessarily, and thus inherently, include associated strength/weakness characterizations, similar to the claimed invention.

In contrast to the Examiner's allegation, Appellant respectfully submits that nothing in Wilkinson teaches or suggests, explicitly or inherently, that the items of the participant questionnaires are characterized as strengths or weaknesses (i.e., have associated characterizations selected from a group consisting of a strength or a weakness), as recited by the claimed invention. As is well understood by those skilled in the art, characterizations such as those recited by the claimed invention may be considered traits, qualities or properties that at least partially distinguish respective entities from one another. *See* Merriam-Webster Online Dictionary, *Characteristic* (visited Feb. 27, 2006) <<http://www.m-w.com/dictionary/characteristic>> (explaining that characteristics may be defined as distinguishing traits, qualities or properties). In accordance with the claimed invention, then, the recited characterizations at least partially distinguish the findings from one another. Nothing in Wilkinson, however, teaches or suggests that the items of a questionnaire have associated traits, qualities or properties that serve to distinguish the items from one another, much less in any manner that could reasonably be interpreted to correspond to a strength or a weakness.

Appellant therefore respectfully submits that independent Claim 1, and similarly independent Claim 7, is patentably distinct from Wilkinson. And as dependent Claims 2-6 and 8-14 include all the limitations of respective ones of independent Claims 1 and 7, dependent Claims 2-6 and 8-14 are also patentably distinct from Wilkinson for at least the reasons given above. In addition, Appellant respectfully submits that various ones of dependent Claims 2-6, 8-14 and 16-20 recite features further patentably distinct from Wilkinson.

(a) Dependent Claims 6 and 12

For example, dependent Claim 6, and similarly dependent Claim 12, further recites voting for agreement or disagreement with the characterization (strength or weakness) of each preliminary finding (i.e., voting for a valuation), and developing final findings further based upon the aforementioned voting step. As explained above, Wilkinson does not teach or suggest, explicitly or inherently, preliminary or final findings having associated strength or weakness characterizations. Thus, Wilkinson also does not teach or suggest, explicitly or inherently, voting for agreement or disagreement with those characterizations. Moreover, even if one could argue (albeit incorrectly) that Wilkinson inherently discloses that the questionnaire items are inherently characterized as strengths or weaknesses by virtue of the subjective nature of such a characterization, Wilkinson still does not teach or suggest voting for agreement or disagreement with the characterization of findings as strengths or weaknesses, as recited by dependent Claims 6 and 12.

3. Improper Official Notice

The Examiner concedes that Wilkinson does not teach or suggest labeling the theoretical principles that guided the process of organizing the meeting, shown in Table 3 of Wilkinson (allegedly corresponding to preliminary/final findings) with strength/weakness characterizations, similar to the findings of the claimed invention. Nonetheless, the Examiner takes Official Notice that one skilled in the art would have found it obvious to modify Wilkinson to include this feature, with the alleged motivation being to provide more information for the assessor to enable him/her to provide the most accurate assessment of the organization. Appellant respectfully disagrees and, not only traverses the taking of Official Notice, but the allegation that one skilled in the art would have been motivated to modify Wilkinson, to enable the most accurate assessment.

According to MPEP § 2144.03(A.), Official Notice can only be taken of facts that are “capable of instant and unquestionable demonstration as being well-known.” Citing *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970), the MPEP continues by explaining that “the notice of facts beyond the record which maybe taken by the examiner must be ‘capable of such instant and

unquestionable demonstration as to defy dispute.” Appellant respectfully submits that the Examiner did not in fact take Official Notice of facts capable of instant and unquestionable demonstration as being well known so as to defy dispute. If, as alleged (but expressly not admitted), the theoretical principles that guided the process of organizing the meeting, shown in Table 3 of Wilkinson (allegedly corresponding to preliminary/final findings) inherently reflect their characterizations as strengths/weaknesses, then those principles must necessarily reflect their characterizations (see above as to the requirement for properly asserting an inherent disclosure). If the principles necessarily reflect their characterizations, as alleged (but expressly not admitted), one could argue that those skilled in the art could just as easily interpret the inherently-reflected characterizations without labels identifying those characterizations, contrary to the Official Notice taken by the Examiner.

Thus, the Examiner has taken Official Notice that it would have been obvious to label the theoretical principles of Table 3 of Wilkinson with their inherently-reflected strength/weakness characterizations. Appellant respectfully submits, however, that it is equally plausible that if the theoretical principles inherently reflect strength/weakness characterizations, as alleged (but expressly not admitted), one skilled in the art could interpret those characterizations without any labels identifying those characterizations. Therefore, Appellant respectfully submits that the assertion that it would have been obvious to label the theoretical principles of Table 3 of Wilkinson with their inherently-reflected strength/weakness characterizations is not capable of instant and unquestionable demonstration as being well known so as to defy dispute, as required to take Official Notice of facts not in the record.

4. No Motivation to Modify Wilkinson

Although the Examiner alleges that the theoretical principles that guided the process of organizing the meeting, shown in Table 3 of Wilkinson (allegedly corresponding to preliminary/final findings), inherently reflect strength-weakness characterizations, the Examiner alleges that would have been obvious to one skilled in the art to label the principles with their characterizations to “provide more information for the assessor to enable him or her to provide a most accurate assessment of the organization.” Official Action of November 29, 2006, p. 4.

Appellant respectfully disagrees, and respectfully submits that one skilled in the art would not have been motivated to modify Wilkinson to include characterization labels.

As explained above, if the principles necessarily reflect their characterizations, as alleged (but expressly not admitted), one could argue that those skilled in the art could just as easily interpret the inherently-reflected characterizations without labels identifying those characterizations. In other words, if the theoretical principles that guided the process of organizing the meeting, shown in Table 3 of Wilkinson (allegedly corresponding to preliminary/final findings) inherently reflect their characterizations as strengths/weaknesses, why would one skilled in the art need or even desire to further label those principles with their respective characterizations. More particularly, borrowing the example in the Official Action, if the principle, "suggested reading were useful in accomplishing workshop goals," inherently conveys a strength, as alleged (but expressly not admitted), why would one skilled in the art need or desire for the principle to include a label expressly identifying the usefulness of suggested reading as a strength.

For at least the foregoing reasons, Appellant respectfully submits that independent Claim 1 and similarly independent Claim 7, and by dependency Claims 2-6 and 8-14, are patentably distinct from Wilkinson.

B. Claims 15-20 are Patentable over Wilkinson

Similar to independent Claim 1, independent Claim 15 recites a method for developing at least one assessment of a process of an organization, where each of the at least one assessments has an associated characterization selected from a group consisting of a strength and a weakness. Also similar to independent Claim 1, independent Claim 15 recites acquiring information concerning the organization and the process, and developing a plurality of preliminary findings based upon the information, where developing the plurality of preliminary findings includes characterizing and labeling each preliminary finding with an associated strength/weakness characterization. In addition, similar to dependent Claim 6, independent Claim 15 recites voting for a valuation associated with each preliminary finding, where the valuation is selected from a group consisting of an agreement with the characterization of the preliminary finding and a

disagreement with the characterization of the preliminary finding. Further, independent Claim 15 recites developing the assessment(s), where developing the assessment(s) includes characterizing and labeling each assessment with an associated characterization based upon the voting for the valuation associated with each preliminary finding.

In contrast to independent Claim 15, Wilkinson does not teach or suggest assessing a process of an organization according to a method that includes developing preliminary findings based upon information concerning the organization and the process, where each finding is characterized as either a strength or weakness, as explained above with respect to independent Claim 1. Also in contrast to independent Claim 15, Wilkinson does not teach or suggest voting for agreement or disagreement with strength or weakness characterizations of the preliminary findings. As to the similar subject matter of dependent Claim 6, the Examiner alleges that Wilkinson discloses voting for agreement/disagreement with the theoretical principles of Table 3 and their inherent characterizations. Appellant again respectfully submits, however, that Wilkinson does not in fact inherently (or explicitly) disclose strength/weakness characterizations for the theoretical principles of Table 3. And even further, Wilkinson does not teach or suggest voting for agreement/disagreement with strength/weakness characterizations for the theoretical principles of Table 3 (even if one could argue that the principles inherently include strength/weakness characterizations – although, yet again, expressly not admitted).

Thus, for at least the same reasons given above with respect to independent Claim 1, and for the additional reason given immediately above, Appellant respectfully submits that independent Claim 15, and by dependency Claims 16-20, is also patentably distinct from Wilkinson.

8. ***Claims Appendix.***

The claims currently on appeal are as follows:

1. (Previously Presented) A method for assessing a process of an organization comprising:

acquiring information concerning the organization and the process;

developing a plurality of preliminary findings based upon the information, developing the plurality of preliminary findings including characterizing and labeling each preliminary finding with an associated characterization selected from a group consisting of a strength and a weakness;

voting for a conclusion associated with each preliminary finding, wherein said voting occurs electronically, and wherein the conclusion associated with each preliminary finding is selected from a group consisting of an agreement with the preliminary finding and a disagreement with the preliminary finding; and

developing a plurality of final findings, developing the plurality of final findings including characterizing and labeling each final finding with an associated characterization selected from the group consisting of a strength and a weakness, wherein the plurality of final findings are based upon said voting for the conclusion associated with each preliminary finding.

2. (Original) A method according to Claim 1, wherein said acquiring information comprises acquiring a first set of information from a plurality of questionnaires, and acquiring a second set of information from at least one of a plurality of interviews and at least one document review, and wherein developing the plurality of preliminary findings is based upon the first set of information and the second set of information.

3. (Original) A method according to Claim 2 further comprising collating the first set of information after acquiring the first set of information from the plurality of questionnaires, wherein said collating comprises identifying at least one of a preliminary finding and information for further review, and wherein said acquiring a second set of information comprises

acquiring the second set of information at least partially based upon the information for further review.

4. (Original) A method according to Claim 1, wherein said voting comprises voting by a plurality of participants for a conclusion based upon each preliminary finding, and wherein said voting occurs anonymously.

5. (Original) A method according to Claim 4, wherein said voting comprises voting by at least one assessor and at least one member of the organization.

6. (Original) A method according to Claim 1, wherein said voting further comprises voting for a valuation associated with each preliminary finding, wherein the valuation associated with each preliminary finding is selected from a group consisting of an agreement with the characterization of the preliminary finding and a disagreement with the associated characterization of the preliminary finding, and wherein said developing the plurality of final findings are further based upon said voting for the valuation based upon the characterization associated with each preliminary finding.

7. (Previously Presented) A computer program product for assessing a process of an organization, the computer program product comprising a computer-readable storage medium having computer-readable program code portions stored therein, the computer-readable program portions comprising:

a first executable portion for acquiring information concerning the organization and the process;

a second executable portion for presenting a plurality of developed preliminary findings, each preliminary finding having been characterized and labeled with an associated characterization selected from a group consisting of a strength and a weakness, wherein the second executable portion is adapted to present the plurality of developed preliminary findings

including associated labels, and wherein the plurality of preliminary findings are based upon the information;

a third executable portion for voting for a conclusion associated with each preliminary finding, and wherein the conclusion associated with each preliminary finding is selected from a group consisting of an agreement with the preliminary finding and a disagreement with the preliminary finding; and

a fourth executable portion for presenting a plurality of developed final findings, each final finding having been characterized and labeled with an associated characterization selected from the group consisting of a strength and a weakness, wherein the fourth executable portion is adapted to present the plurality of developed final findings including associated labels, and wherein the plurality of final findings are based upon the voting for the conclusion associated with each preliminary finding.

8. (Original) A computer program product according to Claim 7, wherein said first executable portion is adapted to acquire a first set of information from a plurality of questionnaires, and a second set of information from at least one of a plurality of interviews and at least one document review, and wherein said second executable portion is adapted to present a plurality of developed preliminary findings based upon the first set of information and the second set of information.

9. (Original) A computer program product according to Claim 8, wherein said first executable portion is further adapted to collate the first set of information after acquiring the first set of information from the plurality of questionnaires, wherein said first executable portion collates the first set of information by identifying at least one of a preliminary finding and information for further review, and wherein said first executable portion is adapted to acquire the second set of information at least partially based upon the information for further review.

10. (Original) A computer program product according to Claim 7, wherein said third executable portion is adapted for a plurality of participants to vote for a conclusion based upon each preliminary finding such that the vote of each participant is anonymous.

11. (Original) A computer program product according to Claim 10, wherein said third executable portion is adapted for at least one assessor and at least one member of the organization to vote for the conclusion.

12. (Original) A computer program product according to Claim 7, wherein said third executable portion is further adapted to vote for a valuation associated with each preliminary finding, wherein the valuation of each preliminary finding is selected from a group consisting of an agreement with the associated characterization of the preliminary finding and a disagreement with the associated characterization of the preliminary finding, and wherein the plurality of final findings further are further based upon the voting for the valuation based upon the associated characterization of each preliminary finding.

13. (Original) A computer program product according to Claim 7, wherein said first executable portion is adapted to at least partially acquire information via a wide area network (WAN), wherein said second executable portion is adapted to present the plurality of developed preliminary findings via the WAN, and wherein said third executable portion is adapted for voting via the WAN.

14. (Original) A computer program product according to Claim 13, wherein the WAN comprises the Internet.

15. (Previously Presented) A method for developing at least one assessment of a process of an organization, wherein each of the at least one assessments is labeled with an associated characterization selected from a group consisting of a strength and a weakness, said method comprising:

acquiring information concerning the organization and the process;
developing a plurality of preliminary findings based upon the information, developing the plurality of preliminary findings including characterizing and labeling each preliminary finding with an associated characterization;
voting for a valuation associated with each preliminary finding, wherein the valuation is selected from a group consisting of an agreement with the characterization of the preliminary finding and a disagreement with the characterization of the preliminary finding; and
developing the at least one assessment, developing the at least one assessment including characterizing and labeling each assessment with an associated characterization, and wherein the associated characterization of each assessment is based upon said voting for the valuation associated with each preliminary finding.

16. (Original) A method according to Claim 15, wherein said acquiring information comprises acquiring a first set of information from a plurality of questionnaires, and acquiring a second set of information from at least one of a group consisting of a plurality of interviews and at least one document review, and wherein developing the plurality of preliminary findings is based upon the first set of information and the second set of information.

17. (Original) A method according to Claim 16 further comprising collating the first set of information after acquiring the first set of information from the plurality of questionnaires, wherein said collating comprises identifying at least one of a preliminary finding and information for further review, and wherein said acquiring a second set of information comprises acquiring the second set of information at least partially based upon the information for further review.

18. (Original) A method according to Claim 15, wherein said voting comprises voting by a plurality of participants for a conclusion based upon each preliminary finding, and where said voting occurs anonymously.

19. (Original) A method according to Claim 18, wherein said voting comprises voting by at least one assessor and at least one member of the organization.

20. (Original) A method according to Claim 15, wherein said voting further comprises voting for a conclusion associated each preliminary finding, wherein the conclusion of each preliminary finding is selected from a group consisting of an agreement with the preliminary finding and a disagreement with the preliminary finding, and wherein said developing the at least one assessment is further based upon said voting for the conclusion associated with each preliminary finding.

9. ***Evidence Appendix.***

None.

10. ***Related Proceedings Appendix.***

None.

CONCLUSION

For at least the foregoing reasons, Appellants respectfully request that the rejections be reversed.

Respectfully submitted,



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